



**CONSTITUTION WEEK.**

Commissioner Hufstetler presented a Proclamation designating September 17-24, 2003 as Constitution Week in Floyd County. The Proclamation was accepted by Mrs. Betsy Rowston and Mrs. Laura Frederick. Mrs. Rowston thanked the Commission and stated that they try to make the public aware of Constitution Week and they will have a window display at the Museum and have will have a display in the Library as well as announcements on the radio. Mrs. Frederick stated that they have written to organizations and clubs asking that during their meetings they observe Constitution Week. She stated that they hoped that everybody will be aware that this is a special week. The flags will be flying and they will ring church bells Wednesday at noon.

**ADOPTION OF**

**MINUTES:**

Chairman Fricks asked County Attorney Tom Manning if the minutes were in order. County Attorney Manning replied that they were in order. Commissioner Jennings made a MOTION to adopt the minutes of the Called Meeting of August 26, 2003 and Regular Meeting of August 26, 2003 as presented. SECOND by Commissioner Mayes. VOTING:

YES

NO

Commissioner Hufstetler

" Mayes

" Jennings

" Bennett

Chairman Fricks

Motion Carried

**FIRST READING**

**(SECOND READING/PUBLIC HEARING**

**WILL BE HELD SEPTEMBER 23, 2003 AT 6:00 P.M.)**

**FILE #07-2003SUP, REQUEST A SPECIAL  
USE PERMIT FOR A RECREATIONAL  
CAMP OR FARM RETREAT IN THE  
A-R (AGRICULTURAL RESIDENTIAL)  
DISTRICT ON PROPERTY LOCATED AT  
FOUCHE GAP ROAD IN THE BIG TEXAS  
VALLEY (ZONING MAP 766-00-004 & 013  
AND 778-00-001 & 005).**

**(PLANNING COMMISSION RECOMMENDATION:  
APPROVE [VOTE – UNANIMOUS])**

FILE #54-2003Z, REQUEST REZONING FROM

C-C (COMMUNITY COMMERCIAL)  
TO S-R (SUBURBAN RESIDENTIAL)  
TO BUILD A SINGLE FAMILY DWELLING  
ON PROPERTY LOCATED ON MARTHA  
BERRY HIGHWAY (ZONING MAP 506A-04-010).  
**(PLANNING COMMISSION RECOMMENDATION:  
NO RECOMMENDATION)**

**FILE #55-2003Z, REQUEST REZONING  
FROM S-R (SUBURBAN RESIDENTIAL) TO  
L-I (LIGHT INDUSTRIAL) TO CONSTRUCT  
WAREHOUSES AND A SPECIAL USE PERMIT  
FOR AN OUTDOOR STORAGE LOT ON PROPERTY  
LOCATED AT 4621 ALABAMA HIGHWAY  
(ZONING MAP 752-00-78,78C, & 78D).  
(PLANNING COMMISSION RECOMMENDATION:  
TABLED [VOTE – UNANIMOUS])**

**FILE #57-2003Z, REQUEST REZONING FROM  
L-I (LIGHT INDUSTRIAL) TO H-TR (HIGH  
DENSITY TRADITIONAL RESIDENTIAL) TO  
CONSTRUCT A SINGLE FAMILY DWELLING  
ON PROPERTY LOCATED ON CENTRAL AVENUE,  
LINDALE (ZONING MAP 394-02-PART OF 44).  
(PLANNING COMMISSION RECOMMENDATION:  
APPROVED WITH CONDITION THAT A PLAT  
WOULD BE RECORDED [VOTE – UNANIMOUS])**

**FILE #58-2003Z, REQUEST REZONING FROM  
S-R (SUBURBAN RESIDENTIAL) TO C-C  
(COMMUNITY COMMERCIAL) FOR MARKETING  
PURPOSES OF PROPERTY LOCATED AT 150 BURTON  
ROAD (ZONING MAP 218-00-086).  
(PLANNING COMMISSION RECOMMENDATION:  
APPROVE [VOTE – UNANIMOUS])**

**REVISE OR DELETE ARTICLE 1.4.3A(2)(E)  
CONCERNING NON-CONFORMING USES.  
(PLANNING COMMISSION RECOMMENDATION:  
TO DATE NO PROPOSAL RECEIVED FROM  
FLOYD COUNTY)**

**REVISE OR DELETE ARTICLE 3.4 CONCERNING  
FARM EQUIPMENT SALES AND SERVICES  
BUSINESSES.  
(PLANNING COMMISSION RECOMMENDATION:**

**CHANGE THE TEXT TO THE PROPOSED REVISION OF: “ADD AN OPEN CIRCLE TO THE TABLE TO INDICATE THAT THE USE WOULD BE PERMITTED IN THE C-C DISTRICT WITH A SPECIAL USE PERMIT [VOTE – 6-1])**

**REVISE OR DELETE ARTICLE 2.2.3A(2)(A) AND ARTICLE 2.11.7D(2)(A) CONCERNING NOTICE TO SURROUNDING PROPERTY OWNERS.  
(PLANNING COMMISSION RECOMMENDATION: NO CHANGE AT THIS TIME [VOTE – UNANIMOUS])**

**REVISE OR DELETE ARTICLE 6.7.9A.(2) CONCERNING STREET CROSS DRAINS BE CONSTRUCTED OF CLASS III REINFORCED CONCRETE.  
(PLANNING COMMISSION RECOMMENDATION: CHANGE THE TEXT TO THE PROPOSED REVISION OF: “STREET CROSS DRAINS SHALL BE CONSTRUCTED OF CLASS III REINFORCED CONCRETE” [VOTE – UNANIMOUS] )**

**REVISE OR DELETE ARTICLE 2.2.5B CONCERNING WITHDRAWAL OF ZONING APPLICATIONS.  
(PLANNING COMMISSION RECOMMENDATION: CHANGE THE TEXT OF THE PROPOSED REVISION OF: “IF NOTICE HAS BEEN PUBLISHED BUT THE APPLICATION HAS NOT BEEN HEARD BY THE PLANNING COMMISSION, THE APPLICATION SHALL BE WITHDRAWN ADMINISTRATIVELY BY THE DIRECTOR OF PLANNING UPON RECEIPT OF A WRITTEN REQUEST. AN APPLICATION FOR ZONING CHANGE ON THE PROPERTY MAY THEN BE RESUBMITTED BY THE APPLICANT, WITHOUT WAITING THE PERIOD OF SIX (6) MONTHS. IF A SECOND APPLICATION FOR REZONING IS WITHDRAWN WITHIN SIX (6) MONTHS OF WITHDRAWAL OF AN APPLICATION FOR REZONING OF THE SAME PROPERTY, A THIRD APPLICATION FOR REZONING OF THE PROPERTY MAY NOT BE RESUBMITTED FOR SIX (6) MONTHS. [VOTE – UNANIMOUS])**

Chairman Fricks stated that Agenda Items one through ten were on the Agenda for First Reading.

CHAIRMAN’S REPORT

## **APPOINTMENTS.**

Chairman Fricks stated that this had not been discussed during Caucus. No recommendations had been made but at some point in time action will need to be taken on the Planning Commission appointment and he thought they will probably need to have some discussion as to the questions regarding the policy in regard to family members. Chairman Fricks asked if they would like to defer this to the next meeting or have the discussion at this time. Commissioner Hufstetler suggested that this be discussed during a Caucus Session.

## **COMMISSIONER'S REPORT**

### **ADMINISTRATIVE/FINANCE COMMITTEE.**

Commissioner Hufstetler stated that they have been working on insurance proposals and they have had some of their meetings. He noted that Commissioner Bennett is also serving on the Committee that is working on that. They had some interviews yesterday and the final interview will be next week. They will probably then have a few more questions to get back with them on, but that is moving along fairly well. Commissioner Jennings asked if these were basically to administer the County program. Commissioner Hufstetler replied, "Yes." Commissioner stated that it gets pretty technical, but there are some real potential savings there.

The regular meeting of the Administrative/Finance Committee will be on Monday, September 29, 2003 at 2 p.m.

### **PUBLIC SAFETY COMMITTEE.**

Commissioner Mayes, Committee Chairman, stated that their next meeting will be on Wednesday, September 10, 2003 at 2 p.m.

### **WATER COMMITTEE.**

Commissioner Jennings, Committee Chairman stated that the next meeting will be on Wednesday, September 17, 2003.

### **SPECIAL COMMITTEES**

#### **BASEBALL STADIUM.**

#### **NEW HEALTH DEPARTMENT FACILITY.**

Commissioner Jennings stated that one of the things that they asked County Manager Poe to do for them was to identify the options that they have as far as the architect's design in building the New Health Department and he asked him to walk them through options he outlines. County Manager Poe stated that he had basically put together three different options. Starting with the Design Build of the Project Manager, which is similar to what was done with the Baseball Stadium. They had talked a little bit

about this before. They are pretty far into the process and this project is a little different from the Baseball Stadium and there were definitely certain things that led them to go towards Design Build with the Stadium that aren't really present currently. But, if they wanted to go that route, they could. Basically with the General Contractor or the Construction Manager you contract directly with them and then they are responsible for providing the architectural services through their contract. So the Architect is basically working for the General Manager or Construction Manager and then at that point you would normally have a Project Manager overseeing it because you need to have somebody representing the County making sure the Contractor and Architect are doing what they need to do.

The second is what they call a Construction Manager at Risk. It is the process that has been used on the Jail and the Law Enforcement Center and the new Courthouse/Forum Complex, but basically you go through a selection process to select the Construction Manager and after you select the Construction Manager, you then negotiate a guaranteed maximum price with the Construction Manager. Related to the Architect, you already have the Architect on board and once you get a Construction Manager on board, they basically work with the Architect to finalize the plans and specifications. They work within an established Project Budget that you have and you sit down and make sure that you negotiate a price that works within that budget. If necessary plans are revised to make sure that it can be done within that budget. Again you have the opportunity to hire a Project Manager to oversee or manage the project. That would be for a separate fee that would be separate from the Construction Manager and Architect fees.

Third is what is called Design Bid Build, which some people in the industry just call "Hard Bid", but basically you go out and hire an Architect. The Architect puts together a complete set of plans and specifications and you put it out for bid. You accept sealed bids from any General Contractors who are interested in bidding on the project and then you award the lowest responsive bid. You put in there that it does have to be responsive to the plans and specifications. So, you could have the lowest bid and determine it is not responsive for whatever reason and you don't necessarily have to take the lowest, but take the lowest responsive bid. Then again, you can hire a Project Manager to oversee or manage the project for a set fee. He stated that he thought when they are dealing with Project Manager, he would say that it can be looked at different ways. They had a Project Manager providing certain services on the Stadium Project that they worked into the contract. He thinks you also can contract with a Project Manager with a reduced level of service. We could pick and choose basically what we want that Project Manager to do and work that into the contract and he would not necessarily have to do as much as a Project Manager did on the Stadium Project.

He noted that at the bottom of the information sheet, so that they will be aware they have contracted with P & C Design Build for architectural services. In that contract, the architect is required to do things such as, and they would do this anyway, review all of the shop drawings that are submitted. They review the monthly progress billings and dealing with change orders. Obviously if there is a discrepancy between the plans and actual construction, they have to work

those issues out. They would monitor progress of the project and provide limited inspections of work and coordinate the construction materials testing. One example of how they did a Design Build Hard Bid was the Prison Project where, basically, the architect provided architectural services and then also along with that, in the standard architectural contract, there are some Project Manager type responsibilities they have, but, they are, to a limited degree, such as inspections. They are only required to come out a certain number of times. If they want to have more inspection services provided, they can either hire with the Architect to do that or they could go with a Project Manager or hire their own Construction Inspector to stay on the job.

He stated that basically those are the three ways that the project could be handled.

Commissioner Jennings stated that one issue that was discussed was the breaking out of the cost, so in the bid, whichever way they go in the bid, cost for mechanical, electrical, plumbing and HVAC would be broken out so that it would afford them some kind of comparison. County Manager Poe stated that one thing they can do when they do a Hard Bid; when you take the bids and they come in, by law, they can negotiate with the lowest bidder similar to what was done with Ware Mechanical on the HVAC at the Fourth Avenue Courthouse. The more they have it broken down the more they can analyze their bid, but if they come in and you see them all broken down and say the lowest bidder, obviously he is low overall, but in one area it is way higher than everybody else's bid, they might question his number in that category and do have the option to negotiate that price down. Commissioner Jennings stated that they have the expertise within the County to look at those and determine how accurate they are or how thorough they are in terms of what they are planning. County Manager Poe stated that because they are broken out, they can be quizzed in a little more detail as to what exactly do they have. Commissioner Hufstetler asked, "When you are talking about breaking those three out, under all of these or are you looking more at the third one or all the bid?" County Manager Poe replied that he is just talking about the third one, but one positive thing on the second one, that, say they did on the Stadium Project and on others is the Construction Manager has gone through the process of selecting individual vendors to provide different areas of work. They sign off on each one of the bid awards, so on the HVAC part, they can make sure that they have gone out and that if there are local contractors interested, they were given the opportunity to bid and that they (*the Commission*) can analyze each individual area of work as they award the bids. This is similar to what you could do on a one-time basis with the Hard Bid when you are looking at the whole project at one time. Chairman Fricks stated that in the past, and reflecting back to the experience at the Stadium, without the competitive bid on the sectors, he thinks they looked at two elements, it would have made \$1.3 million in difference there. He thinks they did get some advantage by bidding out the different segments of it. One thing they did was control, somewhat. They asked them to participate with us and received a lot of local participation in that contract because of that. County Manager Poe stated that the CM has a little bit of benefit because he is working toward the budget. If he goes out to the market and gets certain prices and it is not going to fit into the overall budget, he can go back and work on trying to find other subs or analyzing their bids on an individual basis. Commissioner Jennings stated that the basic difference between the CM and the Hard Bid is that you select the CM first and then you work at the guaranteed maximum price. With the Hard Bid, the general contractors are coming in with the dollar figure up front as opposed to that dollar figure being negotiated after the fact. He stated that he thinks in light of what was just suggested, doing the CM, you have the opportunity to take a look at the mechanical, electrical, plumbing, and you have a greater opportunity perhaps to get local

participation. He asked if that analysis made sense. County Manager Poe stated that he did not know if it is greater, it all depends on how the Hard Bid turns out. You have a little more flexibility in dealing with these issues through a CM at Risk, because basically they are awarding the different portions of the work separately and have the opportunity to review them and deal with them, whereas Hard Bid you do them all at one time and deal with the whole project cost at one time. County Manager Poe stated that they select the CM first and then negotiate the guaranteed maximum price. Commissioner Jennings stated that you don't know what the money is, what it is going to cost, until after you have made that selection and then they go out in the market place and ... The Hard Bid, you know what the money is up front. County Manger Poe stated that overall it does... Commissioner Hufstetler stated that there are always change orders from that. Commissioner Bennett stated that he thinks the secret to this, and it is not really a secret, but in trying to be careful and responsible, is that we eliminate a lot of discussion before the job ever goes to bid. The way we are doing this is having hired an Architect and we aren't under some time constraints like they were at the Stadium and some things like that. The Stadium turned out to be a terrific project without any question. But they were under some time constraints to get that built and select a team that basically they fast tracked as they went through. We still have the option to go under that Construction Manager's Risk, like you are talking about or some modification of that or the Hard Bid. In either of those instances, it would seem to him, and this is one of the things discussed in the meeting, that we define what is in a change order. In other words, they can define the fees that will be charged and allow something for processing the document, so to speak, and the determine what a change order is. In the event that one comes up. The other, he guessed, gray area is what is considered to be a job cost. Is the new car a job cost or is it charged so much a day or so much a mile? And those parameters can be set in the bid documents, that these will be recognized job costs to where you don't bid something at a real low price, depending upon a change order to come. He stated that he thinks they still have the option, at this point, actually to do any of those that they wanted to do. They have already committed for the Architectural Plans and are going to have a good set of documents up front, where they can get a Hard Bid or go in and say, we just want somebody to go through these specs with the Architect again and be a Project Manager either for a set fee for them or a percentage or put them at risk, whichever. Commissioner Hufstetler stated that on the Hard Bid you say you have a contract which says they will do it for \$7 million or whatever. He stated that he would assume that he had done his homework on his subs. Commissioner Bennett stated that technically he would be receiving... that makes it open to the entire public and that is the judgment of that contractor who is preparing this bid to use a bid or reject a bid. Typically you do get a wide range of subcontractors bidding on a job, at least of this size. Commissioner Hufstetler stated that at that point anything, anywhere that he can cut some corners and save some money, he gets it. Commissioner Bennett replied that was correct if it is a Hard Bid. Commissioner Bennett stated that they could do a modification of that. Commissioner Hufstetler stated that he does not want it to be where the incentive is to cheapen it and save money. They really did not have that with the Design Build, but he goes back to the Project Manager, they found, you were talking about cars and stuff, reimbursables in the contract that we weren't, we are not in that business, we were not smart enough to find it. If we had not had them on board, we would have either been over budget or we would have had less of the Stadium because there were a bunch of hidden dollars in there that we did not know how to find, we didn't speak the language. Commissioner Bennett agreed. Chairman Fricks stated that they had a full accounting department that reviewed the invoices on a monthly basis. Commissioner Hufstetler stated that

he just brought up the reimbursables as an example because there were some big dollars there that they found immediately. Commissioner Bennett stated that those are the type things you try to keep out of the change order if you did have a bid.

Chairman Fricks stated that was one thing that he was very favorable of and he would like it to happen again. He stated that he does not know how they do this under those scenarios. They identified, first of all they bid it out to the minimum, value engineering in the beginning and they bid out the minimum. They were able to, because they came under budget, actually originally under budget over \$1 million, do the add-ons. That was one thing that he really liked about that. He thinks that public wise, sometimes when you start pulling things at the end trying to make it within your budget, you feel the appearance is that you are cheating the public in that area. Sometimes if they just bid it out to the minimum, but continue to bid out the other sectors and say if we are favorable on our budget, we are able to add brick facades and plazas and different elements like that. He really did like that and he thought that the public was more acceptable to that as well. He stated that under any of these other scenarios if they could under Hard Bid, but that was one item that he was ... County Manager Poe stated that Hard Bid you could do additive change orders like deductive change orders so that if you come back and wanted to add some of it, you might have a little more flexibility under a Construction Manager type arrangement, but you can handle it either way.

Commissioner Bennett stated that you do not want to make the bid too complicated upfront, but you can add alternates to get the paint, for example, and then an add alternate to do a different grade of carpet or tile or put ceramic in it or add wallpaper. You don't want to get it to where you have 40 pages to fill out at the bid because that gets to be cumbersome. Chairman Fricks stated that he thought that was one of the good things, when you come and have your construction management in place before the completion of the design, he thought they made an adjustment on the roofline, which was about a \$30,000-\$50,000 change order. But, today nobody could tell you whether that roofline changed or not and different elements like that which were identified, actually in the design phase, before we had a complete set of drawings. We did not wait until the end and then change them back and we didn't have any redesign fees or anything like that.

County Manager Poe stated that you team the architect with the CM to come together with a design that meets with owners approval and is also something that can be worked into the budget. The CM is there to make sure that things are not added that might run up the budget. He stated that they have already done some of that with the roofline and overall design of it with some things that are obvious. The CM would be looking at things that might not be as obvious to us as they go through each phase of the work. Chairman Fricks stated that even on that design, for example, he would think that that would have a pretty significant cost reduction on the original design, he would assume. He would think that it would be easier to complete a flat roof rather than to put the elaborate atrium. He stated that they have identified the areas that are going to carry it up, but have we identified that too? He said he knows that they did that cost estimation on what that design was, but did we do the deductive on those as well? He knows that they have identified what the additional foundations are going to probably run.

County Manager Poe stated that on the Hard Bid, you rely on the Architect. Hopefully he has a good estimate, then you find out how close it is when you get the bids in. When dealing with a Construction Manager, they take the plans and they run it through their estimators and you know if there are issues or if it is going to be potentially over budget up front before you ever enter into the guaranteed maximum price with the CM. Chairman Fricks stated that it worries him, traditionally. Commissioner Jennings stated that the more he talks about it, hear about it, and they discuss this, it looks like the Construction Manager approach is the one that gets the Construction Manager teamed up with the architect and gives us some flexibility in terms of looking at the mechanical, electrical and the plumbing. Ultimately, when we get to the guaranteed maximum price, they then look at that price and either they know that they have some flexibility to add some things to the project or they know that they have to find some ways of looking at the mechanical and finding some cost savings there. He stated that it looks to him like that may be their best alternative. He stated that he was not sure, and he thought County Manager Poe had said, with that alternative you could still do the Project Manager, but with perhaps a reduced level of scope as compared to what they had at the Stadium. So they have, kind of another level of oversight in the process, if they feel like that will give us some local comfort.

Commissioner Hufstetler stated that he guessed, in theory, it seems reasonable, but then he looks at it, when you name the ones that have been done that way here, there had been some big problems. That is his only concern, that the Design Build works real well, he is not saying they have to go that way, but it worked real well when they did it. The other process has had some problems over the years. There may be completely different circumstances that caused those. Commissioner Mayes asked if they went with the Design Build, the Construction Manager could literally say that the architects work up to this point is not going to work in this situation and once we do it we could really waste a lot of money. Chairman Fricks stated that the other scenario is they could have a complete set of plans and then they could tell you that it wouldn't work. County Manager Poe stated that you could bid it out and if it is way over bid, you are back to the drawing board. Chairman Fricks stated that they would rather know that it is not going to work at this point. County Manager Poe stated that he did not think that Mike (*Page*), if they are going to do a definitely Design Build or even Construction Manager, if we are going to go that route, does not need to be doing any more work. He has the basics of the building, but as far as ... Commissioner Bennett stated that if he has it roughed in, he is sure that he has a rough set of specs now. At this point, we had already talked with a man from another firm who initially had done a preliminary budget on this project to kind of give them a little bit of comfort. Basically, he ran it by subcontractors he is used to dealing with that have experience in this type of construction. Maybe to get a comfort level we just invite him back to look and see where we are now. Before we were working off a very rough type of drawing. There wasn't much detail to them at all. Commissioner Jennings asked if this was the man from Cartersville. County Manger Poe replied that it was and, basically, it was while they were under contract with Carter on the Stadium, they were using them on an hourly basis to do some initial review of the project. He stated that he thought he was looking mainly on a square foot basis. Commissioner Bennett stated that they did go to some of the major subcontractors for them to estimate in terms of tonnage of air-conditioning, size of electrical panels that would be required, number of fixtures would you would need a plumber for and that sort of thing. Just doing some square foot numbers, not just the square footage of the building plan, but walls and other mechanical stuff.

He stated that he thought, like he said, there had been good success in the past with the other types and with him. He suggested inviting him to a meeting. He stated that he thought Mike (*Page*) will do a little more finessing on the drawings. He thought that he had pretty well put to bed the size requirements, number of rooms, where the halls go and how many offices and storage rooms and this sort of thing. It came up in the last meeting to go ahead and try to remove the guess work or estimation work out of the foundation on the pilings and that sort of thing, to go ahead and get some more detailed information on that so that we would not just be using an allowance. At least on this project, they don't have the time constraints. We would like to go ahead and get started, it is not like we have to be in there and so we can't take the time to do some preliminary work. We have time to do that. Commissioner Hufstetler stated that the last time we did this and we were having these type of discussions, we had a Project Manager sitting in on those discussions. He stated that is one thing... County Manager Poe stated that if they do a Project Manager, he would say that they select him before they go through the selection. If we go Construction Manager, you get them on board first. He stated that one thing, from his experience, like when they did the Jail Project and the Law Enforcement Center, and even knowing a little bit about the Forum and New Courthouse, they were all done with a CM at Risk, but he knows that on those projects that they used a Project Manager and it would kind of, it was really the architect's responsibility. There was just so that he could do through his office to oversee it, so you do rely heavily on the architect to do the amount of project management that is required through the architectural contract and you do get a minimal amount of level of service when it comes to managing the project. This would be different if you did a CM at Risk with a Project Manager, he thought there could have been some issues that they had on other projects that could have been handled a little different. Commissioner Hufstetler stated that he feels that before Mike does anymore work, or anybody, that they should try to get that selection for this. He stated that they were with them before this point last time and identified a lot of things that particular one, of course, had done for BellSouth and Georgia Tech and different places. It is their job to identify problems and areas that companies may be indirectly costing you. He stated that he shuddered to think how it would have been without them there.

Commissioner Jennings stated that what they are doing is employing another set of eyes to look at the process, the plans, the project; eyes that have some expertise in this type of building, this type of construction. He stated that his guess is that it would be less costly than the Stadium Project. One, because it is not as costly a project, but also he thinks it is in many ways a more straightforward project, the building itself. Chairman Fricks stated that probably the scope of work is a lot less since there is an architect on board that is going to take on a lot of these services then their scope of work is a lot less than actual. County Manager Poe stated that the scope of work will be lot different. Commissioner Mayes stated that this is a less conventional building. Commissioner Jennings stated that in order to do that the step is to do an RFP for the services because we do have, he knows at least one local firm, that has experience in this area that is interested. County Manager Poe stated that if you go the Project Manager route, he thought that they needed to go through the RFP process and make a selection because there is more than one company interested.

Chairman Fricks stated that going back to data, he thinks he (*County Manager Poe*) had seen substantial less time that he had to contribute and his time is limited. On these other projects he pretty much has had to apply a lot of time and felt more of a comfort level with ... County

Manager Poe stated that it was not like he did not have to do anything with the Stadium, he still spent time with it, but without a Project Manager, it is even more time, you are sitting in every ... Commissioner Hufstetler stated that probably the Finance Department had to spend less time because they had a full accounting. County Manager Poe stated that you are sitting in every project meeting and then trying to dig through the billings and look at the general conditions and what they're charging you for. Commissioner Jennings stated that perhaps whoever is selected as the Project Manager can then help us in terms of this decision in front of us although it looks to him like the second choice from this discussion is probably the route to go within light of the fact that we do have a fairly good set of plans. It has moved forward considerably with a lot of contact with the Health Department, but they can help them with that decision. He stated that he thought if they were going to do that, they needed to get on it. They need to authorize the RFP for those services to go out soon. Commissioner Hufstetler asked if they needed to place this on the Agenda now or is that something they are ready to act on. County Manager Poe stated that it was on the Agenda for their action. Commissioner Hufstetler asked if all that County Manager Poe needed was authorization from them to send the RFP out.

Commissioner Hufstetler made a MOTION to authorize the County Manager to send out an RFP for Project Manager services for the Health Department construction. SECOND by Commissioner Jennings. VOTING:

YES

NO

Commissioner Hufstetler

" Mayes

" Jennings

" Bennett

Chairman Fricks

Motion Carried

## **CONSOLIDATED TASK FORCE.**

Chairman Fricks stated that they had met yesterday and had a gentlemen from Spaulding County make a presentation to the group. He stated that he thought it was enlightening to a lot of them. He thought it was a good program. They asked a lot of questions about how Spaulding County. He thought that had been through two votes at this time and has failed twice and their vote, oddly enough reversed. He thought that it passed in the County at one point in time, passed in the County the first time and failed in the City and... County Manager Poe stated that he had gotten a little confused, but he thought it flip-flopped. He thought that one time he heard them say that it failed both times in the County, but then he also heard them say that it flip-flopped. Chairman Fricks stated that it was initiated through Legislative Order on that one. County Manager Poe stated (*it was initiated through*) Legislative Delegation, they went to the Legislature and set up a Charter Committee. Chairman Fricks stated that they also went through and selected their five members that will be on the Task Force Committee and selected a Chairman of this group. He stated that he thought they were moving along and their

plans are to try to arrange one more meeting with someone from one of the additional counties before they start working with the group that is going to be developing this charter.

Commissioner Hufstetler stated, that on the Educational Committee, some of the voting members were selected. There are six total members to select and he thought, two from the City Schools and three or the four from the County Schools. From one of the County Districts there was actually only one representative there from that area so that decision was not made at the time. He stated that he did have some concerns with the direction of that Committee. He thinks that there has been a lot of apparent talk or something that has people scared that there is no guarantee of where their child will be attending school and what schools will be closed down. He stated that he does not see any of that happening, he would think that a new School Board would have to be responsive to the voters just as they are now. But, he does see a lot of concern out there and he thinks that is probably going to be the most challenging area of this consolidation. Commissioner Jennings noted that changes and the unknown is going to be difficult.

**SPLOST PROJECTS.**

County Manager Kevin Poe stated that they closed on General Obligation Bonds and proceeds from that Bond Issue are in the bank drawing interest, whatever little interest there is. He stated that they did have money available to reimburse themselves for some expenditures they had already incurred and have money to move forward with the projects. Chairman Fricks mentioned that it was interesting the number of papers involved at Bond Closing.

**CLERK’S REPORT**

**CONSENT AGENDA.**

Clerk Michele Fountain stated that there were four items on the Consent Agenda and she presented them for approval. Commissioner Hufstetler made a MOTION to approve the Consent Agenda. SECOND by Commissioner Bennett. VOTING:

	YES	NO
Commissioner Hufstetler		
" Mayes		
" Jennings		
" Bennett		
Chairman Fricks		

Motion Carried

1. Tax Refunds:

- a. Owens & Evans Trucking, Inc., 299 Vernon Road, NE, \$8.46
- b. Lois & Paul T. Roberts, 47 Donley Drive, \$42.61
- c. Tammy D. White, 6 Landrum Place, \$27.44
- d. Jessie Eugenia Dean, 107 Butler Street, \$.03
- e. Cisco System, 170 W. Tasman, San Jose, CA, \$.00
- f. Ronnie Horace Pierce, 979 Floyd Springs Road, \$42.27

License Applications:

- a. Sundrani, Inc., d/b/a Texaco on the Go, 1994 Kingston Road – Self-Service Fuel.
3. Enter into Minutes Contract #LAR00-S005-00(636) C1 with Department of Transportation for 18.170 Miles of Plant Mix Resurfacing for Various County Roads.
4. Request from Tax Commissioner to relieve Tax Digest of List of Insolvent Personal Property in the amount of \$377,891.98.

## MANAGER'S REPORT

### **AWARD BID FOR JANITORIAL SERVICE FOR COURTHOUSE/ADMINISTRATIVE BUILDING AND LAW ENFORCEMENT CENTER.**

County Manager Poe stated that he had failed to get the Bid Tabulation Form in the Agenda Packet and he distributed copies of the form. Bids were taken for Janitorial Service for the Courthouse/Administration Building and Law Enforcement Center. They have been doing this on a three-year basis. He stated that they can see the review of bids. It was separated out by Courthouse and Law Enforcement Center and they can either do them separate or combined, whichever works to our benefit. He thought that working them combined works to our benefit because you are just dealing with one company, plus you put the price together. The low bidder, H & M Cleaning, overall came up with the best price on an annual basis which was \$58,992. He stated that they have not done business with them before but did check some of their references. Currently we are using Clear Cleaning and our current contract is around \$68,400 so going with H & M Cleaning we would be saving about \$9,000. The contract would be on a one-year basis with the option to renew it for two additional years, but at the end of each year we can get out of the contract by our own choice. We do have performance standards where ... Commissioner Mayes stated that even with the contract being three years, you have a 30-day opt-out. County Manager Poe stated that through certain performance standards, if they aren't meeting the terms of the contract, we can get out of the contract at any time with 30-days notice, it might be 60-days. Currently to get out of the contract with Clear Clean, if we go with the low bidder, we have to give a 60-day notice and then H & M Cleaning would come in and take over the contract. Based on references he feels that it is worth giving them a shot at it and we look to save some money over what is being paid this year. Commissioner Mayes asked who are the principals of

this company. County Manager Poe replied that the principals of H & M Cleaning ... the owner/operators are Sammy Hardy, Kelvin Morse and Darrell Blanchard. He stated that some of their larger contracts now are with the Harbin Clinic. Commissioner Hufstetler asked what was the large one. County Manager Poe replied, "Harbin Clinic, they have a couple of their facilities and some doctors offices." He stated that John Mays, the Facilities Manager, did sit down and review the contract. They are way low on the Law Enforcement Center and he made sure that they understood what our expectations are and after talking to them, he felt comfortable recommending them. Commissioner Mayes noted their present experience. They have been in business less than a year or two and their present customers are buildings that Harbin Clinic owns. This means that they may have \$500 or \$600 month accounts so this will be the first large account they have ever had. County Manager Poe stated that he thought this would probably be the largest. Commissioner Hufstetler mentioned that there is a 30-day opt-out. County Manager Poe stated that they have Performance Standards and also if it doesn't work out the first year we can put it back out for bid. County Manager Poe stated that his recommendation would be that the contract be awarded to H & M Cleaning per their proposal. Commissioner Hufstetler noted that range of the bids from \$58,000 to \$426,000. County Manager Poe stated that it was pretty competitive when you get to the lowest ones, but the total spread... Commissioner Mayes stated that there were about four of them which were actually in line, then you have two which are way out of line.

Chairman Fricks called for a Motion. Commissioner Jennings made a MOTION to award the cleaning contract to the low bidder, H & M Cleaning. SECOND by Commissioner Hufstetler. VOTING:

YES

NO

Commissioner Hufstetler

" Mayes

" Jennings

" Bennett

Chairman Fricks

Motion Carried

**AUTHORIZE CHAIRMAN TO EXECUTE  
INTERGOVERNMENTAL AGREEMENT  
BETWEEN FLOYD COUNTY, THE  
ROME/FLOYD PARKS AND RECREATION  
AUTHORITY, AND THE STATE OF  
GEORGIA FOR PROPERTY ACQUIRED  
UNDER THE RIVER CARE 2000 PROGRAM.**

County Manager Kevin Poe stated that currently they have a Memorandum of Understanding between the State of Georgia, the Parks and Recreation Authority and Floyd County related to managing property that the State has purchased in Floyd County under the River Care 2000 Program. He stated that, basically, the documents are an official Intergovernmental Agreement

between Floyd County, Rome/Floyd Parks and Recreation Authority and the State of Georgia related to the management of these properties. This covers the same items and responsibilities that were included in the initial Memorandum of Understanding. He recommended the Chairman be authorized to execute the Agreement as submitted. County Manager Poe asked Commissioner Bennett if the Recreation Department had already acted on this. Commissioner Bennett stated that he was sorry to say that he had not been to the last couple of meetings, due to conflicts with other County meetings. Chairman Fricks noted that their contract was signed. County Manager Poe stated that the original Memorandum of Agreement was signed by all parties included in the contract. Chairman Fricks asked what were they agreeing to? Do we cover maintenance and liability, do we list these properties under our inventories or who does that? County Manager Poe stated that he thought they were actually in the name of the State, but related to our use of them. At one time they were talking about doing an archery area on some of the property, which he is not sure that they can or cannot do. Say something occurs during an event, based on how we are using that property, we would be liable. But if the property is just out there and somebody trespasses on it and we are not using it for in particular use, it is basically State property, related to liability. County Manager Poe stated that we will have to agree to... Commissioner Jennings stated that he wondered if the County Attorney should have an opportunity to look this over before they vote on it. County Manager Poe stated that it could be done pending Attorney's approval. County Attorney Manning stated that they may want to approve it subject to his review. He stated that he had not seen it. Commissioner Jennings asked if there was any rush to do this. County Manager Poe stated that there is a Management Plan that they have to abide by because they have run into situations where certain ways the property was being managed wasn't complying with what the State required. Chairman Fricks asked what happens if it is not used by the proper plan, does it void the lease? County Manager Poe stated that he is sure that it would void the agreement with the State of Georgia. You have to manage it according to their regulations.

Chairman Fricks called for a Motion. Commissioner Jennings made a MOTION to authorize the Chairman to execute this Intergovernmental Agreement between Floyd County, Rome/Floyd Parks and Recreation Authority and the State of Georgia for property acquired under the River Care 2000 Program, subject to the review of the County Attorney. SECOND by Commissioner Mayes. VOTING:

	YES	NO
Commissioner Hufstetler		
" Mayes		
" Jennings		
" Bennett		
Chairman Fricks		

Motion Carried

**DISCUSS DESIGN AGREEMENT  
BETWEEN THE DEPARTMENT OF  
THE ARMY AND FLOYD COUNTY**

**FOR DESIGN OF THE MAYO'S BAR  
LOCK AND DAM RECONSTRUCTION.**

County Manager Kevin Poe stated that during the Caucus Session they had discussed some details about the Design Agreement between the Department of Army Corps of Engineers and Floyd County for the design of the Mayo's Bar Lock and Dam reconstruction. This deals with both Federal government's cost on the project, plus Floyd County's being the sponsor, our cost that we would incur and what's involved in the design of the Lock and Dam Project. He recommended authorizing the Chairman to sign the document. Commissioner Bennett asked if this is for the design only. County Manager Poe stated that this is just for design services. Commissioner Bennett asked if it was correct that they were going to take the first one. Commissioner Hufstetler asked Commissioner Jennings if his discussions with people like Bill Davon needs to happen before the Design Agreement or will it be going along simultaneously. Commissioner Jennings stated that he thought they could go along simultaneously, especially as it relates to design plan. Chairman Fricks stated that most of the conflict he has heard is about the dam construction. He asked if he was correct that even the design is broken up into phases. County Manager Poe replied, "Yes." Commissioner Hufstetler stated that they would just be approving the design itself today. County Manager Poe stated that this is dealing strictly with the design portion. Commissioner Hufstetler stated that he thought he was ready to go ahead on that. Commissioner Bennett asked if the additional funding was already funded in the 1988 SPLOST or is that one where it is on the list, but all of the money is gone. Commissioner Hufstetler stated that that and some other things that were supposed to be done in 1988, the money was spent and gone. Commissioner Bennett asked where would they get this, would it be out of the general operations? Chairman Fricks stated that that they actually have set it aside in their ... Commissioner Hufstetler stated that they have some set aside and they can also look for some more grants and other things down the road. County Manager Poe stated that just like that other \$142,000, use that for construction. The money is authorized, but the wording now is only allowing for them to use it for design, but he thinks it is just a matter of changing some wording and the \$142,000 left over can be flipped over into construction. Chairman Fricks stated that it is probably relatively close to the current budget. They could complete Phase I and II and if the Change Orders are in this new contract you negotiate. If they can't be negotiated on the scope of work on this old bid, we know that it will come back to us at that point in time. Commissioner Hufstetler made a MOTION to approve the Design Agreement. SECOND by Commissioner Mayes. VOTING:

YES

NO

Commissioner Hufstetler

" Mayes

" Jennings

" Bennett

Chairman Fricks

Motion Carried

Commissioner Jennings asked County Manager Poe to have Darrell Wheeler pull together an Advisory Committee of local interest to participate, not only in this design process, but give us some help locally. Apparently they will have some national help as far as the Fish and Wildlife Service signing off on the project, but he thinks they need to have local participation because there are some experts in our community about the fish in the Coosa, Oostanaula and Etowah. He stated that he thought now was the time to pull together that committee.

**APPROVE SUBMITTAL OF  
HAZARDOUS MITIGATION  
GRANT APPLICATION.**

County Manager Kevin Poe stated that Hugh Atkins had come before them during Caucus Session to talk about submitting a grant under the Hazardous Mitigation Grant Program that is being administered by the Georgia Emergency Management Agency. This is just asking for approval to submit the Grant Application as provided during Caucus, with the changes they had noted. Commissioner Hufstetler made a MOTION to approve the submittal of the Hazardous Mitigation Grant Application, pending review by the County Manager. SECOND by Commissioner Jennings. VOTING:

YES

NO

Commissioner Hufstetler

" Mayes

" Jennings

" Bennett

Chairman Fricks

Motion Carried

**DISCUSS RECOMMENDATION FROM  
AIRPORT COMMISSION TO PURCHASE  
ASL TURBINE HANGER.**

County Manager Kevin Poe stated that they are not ready for action on this at this time. They will be looking at the different ways that they could finance that purchase and it will be brought back to the Commission.

**DISCUSS RECOMMENDATION FROM  
AIRPORT COMMISSION TO APPROVE  
NEW LEASE AGREEMENT WITH  
CAPITOLINE PRODUCTS, INC.**

County Manager Poe stated that there is a recommendation from the Airport Commission to approve a new Lease Agreement with Capitoline Products, Inc. That recommendation along with the proposed Land Lease Agreement is in the Agenda Package. Commissioner Jennings asked County Attorney Manning if he had had an opportunity to look at this. County Attorney

Manning replied that he had not, but would be glad to. Commissioner Hufstetler asked if it will hurt to wait another meeting. Chairman Fricks stated that one of the things they always requested of them was that the lease be submitted prior to us so the County Attorney would have the opportunity to review it. Commissioner Hufstetler stated that he did not understand all of the circumstances on this one, but they (*Airport Commission*) seem to really think that this needs to be done. Commissioner Bennett stated some kind of parity issue. Commissioner Jennings stated that he would feel better if County Attorney Manning had a chance to look at this. County Attorney Manning asked if they wanted to do this similar to the other where it is subject to the attorney's review. Commissioner Hufstetler suggested waiting on this item. Commissioner Jennings stated that there may be some questions. Chairman Fricks suggested comparing it to the old lease and see what the differences are.

**AUTHORIZE CHAIRMAN TO  
SIGN REVISED CONSENT ORDER  
WITH EPD FOR CLOSURE OF  
BERRYHILL LANDFILL.**

County Manager Kevin Poe stated that they have a Revised Consent Order with EPD for closure of Berryhill Landfill. He stated that this deals mainly with their attempts to get a final stand of grass. They have not given us a Closure Certificate after they completed closure construction back in the year 2000 because they did not have 95% of the landfill covered in grass. He stated that the original Consent Order said that beginning July 1, 2000, any day after that we did not obtain the certificate, we would be fined \$100 per day. We originally entered into that agreement and right after that we were in pretty dire drought conditions and, first of all, trying to get grass to grow at the Landfill was tough and then under those weather conditions was even tougher. He stated that pretty much for the last two years he has been writing the EPD asking for a reprieve on that Consent Order. This past spring and summer a lot of work had been done at the Landfill trying to get additional grass to grow on the Landfill and he thought they had gotten it to about what they thought was 95%. He had asked EPD to come out and do an inspection. He met with them on-site and their opinion, without any kind of scientific way to determine it, they said that it still lacks 1% or 2% more grass. But, he was able to convince them to go back and review and give him an answer to all of the letters he had written them related to a reprieve. If they had been still fining us \$100 per day we would have been up into the \$100,000 range and we have not paid a penny yet. So they came back and we have a Revised Consent Order that, basically, says we agree to pay the sum of \$5,000 and they are giving us one more year to get this additional 1% or 2% of the area grassed and then if it is not done by September of next year, then the \$100 per day will kick in. He stated that he feels pretty confident that they will be able to get back out there and do that. This fall, trying to get up a stand of rye grass should be pretty easy. Commissioner Jennings asked if EPD can be called back at any time to look at it. County Manager Poe stated that as soon as it comes up they are going to call them. Commissioner Mayes asked what had been done at this point, didn't they have a sprinkler system out there? County Manager Poe stated that was part of the problem. They don't have an irrigation system and had to pull water off of fire hydrant and that goes against what the EPD is trying to get people to do as far as conserve water. We weren't having a lot of rain. He also noted that they had been under State watering restrictions. County Manager Poe stated that they have had to haul a lot of topsoil. He stated that it looks like to him that they have it down to 95%, he had not

gone out and measured all of the bare areas. They come out there and walk around and say no. It is still a little bit short. He stated that he did not think they would have any problems getting this completed this fall. The good thing is that the fine was reduced from potentially over \$100,000 to \$5,000. County Manager Poe recommended that the Chairman be authorized to execute this Revised Consent Order with EPD. MOTION was made by Commissioner Mayes. SECOND by Commissioner Jennings. VOTING:

YES

NO

Commissioner Hufstetler

" Mayes

" Jennings

" Bennett

Chairman Fricks

Motion Carried

**DISCUSS ADDITIONAL DISTRICT  
ATTORNEY FOR DISTRICT  
ATTORNEY'S OFFICE.**

County Manager Kevin Poe stated that the District Attorney had been before them during Caucus with a request to add an additional Assistant District Attorney to her staff and that is before the Board for their consideration. Commissioner Hufstetler stated that he had discussion during Caucus of the fact that on a per capita basis this is the highest funded area. He stated that he did not know all of the specifics of that operation, but feels that a lot of areas have been cut and doesn't feel that it is appropriate at this time. He stated that he would not disagree that probably that one individual is not in the best position, that is doing that. But, at the same time he feels that the funding is there. Commissioner Jennings stated that he is confused by the Weighted Case Load column. Commissioner Hufstetler stated that he was not even using that column because that is confusing. Commissioner Jennings asked if that was simply comparing the caseload of us in the Rome Circuit with the caseloads of other Circuits across the state. He asked County Attorney Manning if he had seen this. County Attorney Manning stated that he had not see it. Commissioner Hufstetler stated that he had gone through that earlier with the Senior Judge and they had received two or three definitions on that. He stated that his feeling on that is that that would be saying ... Commissioner Jennings stated that if they look at the total number of cases and divide that by the number of judges you get... That is how he would interpret that. Commissioner Hufstetler stated that he thinks it is saying is that in a perfect world you would have a certain number of judges to handle the cases. Commissioner Mayes stated that the problem with looking at numbers is what District Attorney Patterson was telling them, that you can't measure quality, how well the services are provided. You can measure quality to a point, but in reality you really can't. Commissioner Hufstetler asked how do they measure it, if it is the most funded per capita of the 49 Circuits? Commissioner Mayes stated that all they have to do is look at numbers right now. County Attorney Manning stated that they could probably, just comparing to population doesn't necessarily... Commissioner Bennett stated that he thought the caseload was also factored there. He stated that his biggest thing was that maybe this does put

that department in a bind by not having this position funded is kind of the way they have set up an organization in there. He does not know that the organization is unique to other DAs. He thinks that is the way they think that it works the best. Commissioner Bennett stated that he did think that they have asked a lot of other departments to work harder and to defer pay and he does not think they have seen the turnaround quite yet in our finances. He stated that he is not really qualified to say how you run a District Attorney's office, but to say that this is the only way to do it does not seem to be appropriate either because a lot of other departments don't work two Assistant District Attorneys per Judge. Without being there he does not know what that flexibility is, maybe that makes it better. He stated that he would have a hard time voting right now. They do have another hearing coming up and do have this before them to review. He stated that he did not think that any of them could really micro-manage any of these departments, but when a question is asked, he likes to have some response than that is just the way they have it set up. He stated that he did not doubt that these people are working hard but we have Budget Hearings coming up and if they could defer it to that point, he thought it would be helpful. Chairman Fricks stated that he did not recalled himself, but it was brought to their attention that they did that in the past. He thought that last year one of the elements that was brought to them was, actually the year before when the new judgeship was made, the Board had asked them to help them phase into this. Once we get it rolling and to the point where there is a significant amount of load on that Judge, then we will look at that position at that point in time. Commissioner Jennings stated that he thought Bryant Speed was District Attorney at that point and he agreed at that point to defer this position. He stated that he could have asserted the need for that position at that time because of the addition of the fourth Judge. So they have had cooperation from the District Attorney's Office in this regard. In his opinion, we are going to have to add this position at some point. It sounds like the will of the body is for them to take this up at a Budget Hearing process and to explore in it November-December, if it is the will of the body to do that.

Commissioner Jennings stated that he is prepared to move forward on this position, but it sounds like he may be one vote here. Chairman Fricks stated that he feels that it is an inevitable and that they move forward on it at some point in time. Commissioner Hufstetler asked how they reconcile the cost in this to the other 48 Circuits and when you look at the other departments that are hurting and say that even though this is the most funded one we are going to ... Chairman Fricks stated that he guessed that he probably wouldn't run for District Attorney because he does not know how run the DA's Office and that at that some point in time they have to. One thing he said to her in today's meeting was that he hoped she would consider the efficiency of the operation and look at the future and come see if there are ways of saving because we have done that in the departments that they are overseeing directly. At some point in time the responsibility of them is they need to justify their expenditures. Commissioner Hufstetler stated that they are in to that point. Chairman Fricks stated that as he said, he does not know the operation well enough to sit down when they justify it and she (*District Attorney*) sat in front of them today telling them how she could justify the position. Commissioner Bennett stated that the comment was that is just the way the department is organized and that is not necessarily the way others are. Commissioner Mayes stated that they seem to be a little split and he did not think it would hurt them if they wait until at least another meeting to deal with this. Chairman Fricks and Commissioner Bennett agreed. County Attorney Manning asked if there was anything they want from the DA in terms of statistics that will help them make the decision. Commissioner Mayes

stated that he would get with County Attorney Manning later on this. Commissioner Jennings stated that it looks to him like the Weighted Caseload is comparing, irrespective of the population, the caseload that exists within the District Attorney's Office. From that perspective, overall caseload, we are 31<sup>st</sup> out of 49, we are right in the middle of the pack, perhaps even on the high end of the pack in terms of caseload. Is that a reflection that we have a higher level of criminal activity in this community? Is that a reflection that we have an incredible Police Force in this community that is doing a good job of finding these people? He stated that he does not know the answer to these questions, but it looks like to him, from a caseload standpoint, we are certainly not the lowest caseload in the State. Commissioner Hufstetler stated that some communities do have other types of cases that go to other types of courts. There are different factors in that. Commissioner Jennings stated that he did not know what made up that statistic. Commissioner Hufstetler stated that some people don't handle divorce cases in those courts. Commissioner Jennings stated that they may not be comparing apples to apples, he does not know. Commissioner Hufstetler stated that it is confusing to him and he hasn't been able to get it explained to him. He stated that he does think in the past there have been cases where sometimes a case that is dropped and brought back on is counted twice and is that the same across the State or in certain jurisdictions. He stated that he would be honest, he does not understand it. Chairman Fricks stated that action will be deferred until another meeting.

## **ATTORNEY'S REPORT**

### **RATIFY PURCHASE AGREEMENT BETWEEN COUNTY AND TRUST FOR PUBLIC LAND.**

County Attorney Tom Manning stated that he had a couple of items to bring to their attention. The first is a Purchase and Sale Agreement between Floyd County and the Trust for Public Land. Just to be consistent with the previous Motion passed by the Commission at its last meeting on August 26, 2003. Commissioner Hufstetler asked what if they don't? County Attorney Manning stated that if they didn't, he thinks they are okay anyway, but so there is no confusion... He stated that the reason for that, as they recalled, he thought that Commissioner Bennett's Motion was to purchase 14 acres, more or less, and as they will see at the end, it is less, it is 12 something. Commissioner Bennett stated that he assumed that the reason that they are less than 14 acres is because they are buying more of the upper land out of the flood plain at a higher price per acre and that has been adjusted out by giving the Chieftains group or the remainder group, whoever that might be, additional flood plain property at a lesser value. Commissioner Hufstetler asked the location on the last page of the document. County Attorney Manning stated that if they look on the last page, the plat, they will see that the former line which the County was going to get went to the bottom left hand part of the page and now there is a new line for Tract II that has the distance of 328.82 feet and call of north 70 degrees, 9 minutes, 2 seconds east. That is the new line.

Commissioner Bennett stated that he thought the County Attorney had done an outstanding job reconciling this document to the Motion. Commissioner Bennett made a MOTION to ratify this agreement. SECOND by Commissioner Jennings. VOTING:

YES

NO

Commissioner Hufstetler

" Mayes

" Jennings

" Bennett

Chairman Fricks

Motion Carried

It was noted that the closing for this will be on or about October 30<sup>th</sup>. It was also noted that if they were to concur in breaking off a sector through a land sale or trade or whatever the case may be, the time to do that would be between now and closing. County Attorney Manning stated that there is no doubt about that. That is correct, if the Commission is interested in that.

Chairman Fricks asked if anyone was interested in entering and working or negotiating on this potential break-off of some of this land. Commissioner Bennett stated that he would volunteer if that is what they want to do. Chairman Fricks stated that he thought that was one of the intents was the possibility of doing that. He asked if they wanted to. Commissioner Mayes stated that he would be glad to work with Commissioner Bennett on that. County Attorney Manning stated that the next step may be to contact Sid Wright with the Chieftains because he knew that they had some interest and he would be glad to play whatever role they want him to play.

Commissioner Bennett stated that he would call Commissioner Mayes and they could try an arrange something.

County Attorney Manning stated that he also, as he had mentioned during Caucus, received a phone call shortly before the Caucus Session. He was also emailed by the County's Bond Counsel, Sutherland Asbill & Brennan, an **Escrow Deposit Agreement** that should have been a part of the Parity Bond Resolution that Sutherland Asbill and Brennan forwarded to the County, which was approved on August 22, 2003. He recommended that this item be placed on the Agenda, number one and then that the Commission pass a Resolution or Motion to add this unexecuted Escrow Deposit Agreement that is between Floyd County and the Bank of New York Trust Company of Florida, NA, which he is presenting to the Commission today, to the minutes of the Commission and to incorporate that unexecuted agreement as a part of the Parity Bond Resolution as well as Page 39 of the Parity Bond Resolution, which this body previously approved on August 22.

Commissioner Hufstetler made a MOTION to place these items on the Agenda. SECOND by Commissioner Mayes. VOTING:

YES

NO

Commissioner Hufstetler

" Mayes

" Jennings

" Bennett

Chairman Fricks

Motion Carried

Commissioner Hufstetler made a MOTION to accept the County Attorney's recommendations on adding the unexecuted Escrow Deposit Agreement being presented by the County Attorney and Page 39 of the Parity Bond Resolution to the minutes of the Commission and incorporate those documents into the Parity Bond Resolution, which was approved on August 22, 2003. SECOND by Commissioner Bennett. VOTING:

YES

NO

Commissioner Hufstetler

" Mayes

" Jennings

" Bennett

Chairman Fricks

Motion Carried

County Attorney Manning stated that just so he is clear with the Clerk and this reads well, what we should have just done and make sure that we did was added to today's Agenda the issue of the Escrow Deposit Agreement and Page 39 of the Parity Bond Resolution and with regard to both of those documents, we are incorporating those into the minutes of the Board of this body and we are, as a part of the Parity Bond Resolution, incorporating those documents into the Parity Bond Resolution that was passed in the August 22, 2003 meeting of the Board of Commissioners.

Chairman Fricks asked County Attorney Manning if they were prepared to take action on the amendment. County Attorney Manning stated that he had looked, immediately after Caucus. What they have to do is, this governing body must pass on the language for the proposed amendment. If they are ready to do that with Proposal #3, they can do that now, otherwise, it can be resubmitted at the next meeting, pass it, then it has to go to the other bodies. Chairman Fricks stated that the question he has is in regard to the process where they missed the loop. County Manager Poe stated that they had missed doing it this month, but he thought that if it was done at this meeting, they could get it into next month's. It was noted that it would have to be readvertised. If they wait until the next meeting, it probably would not get to them in time and it will be the November meeting. Commissioner Hufstetler asked if the wording needs to be tweaked or it can that be done later on. County Attorney Manning stated that he thought that the wording they submit is the wording they are asking to be changed so it wouldn't need to be tweaked. Chairman Fricks stated that he thought they had changed some on the Second Reading. County Manager Poe asked don't they have the opportunity after they have the Public Hearing and Second Reading? Commissioner Hufstetler suggested that they go ahead and do it and then the County Attorney can research that and, if not, they won't act on it.

Assistant County Manager Sammy Rich stated that one thought on this, following the ULDC, the Planning Commission gets the first look at it so one option may be to have County Attorney

Manning draft the language that was discussed earlier. This has to go back to the Planning Commission following the ULDC Outline and then it will come back to the Board after they see it so you will still get to approve it instead of having to vote on it twice, you will get it after they have seen it and pass it to you. That would eliminate a vote today and County Attorney Manning kind of knows his direction. *(There were some comments by the Commissioners that were not audible.)* County Attorney Manning stated that he thought he had mentioned this to the Board before, he thinks that the City Attorneys are looking at and are close to rendering an opinion on the amendment process altogether and he certainly does not speak for them, but thinks they may be leaning toward that, as we have opined, that the current amendment process may have constitutional problems that necessitate a change of that. Commissioner Hufstetler stated that he thought if they follow what Assistant County Manager Rich said, they don't have to... he can draft the language for the Planning Commission, we don't actually have to take action right now. Assistant County Manager Rich stated that was his opinion, he did not know if County Attorney Manning agreed with that, but basically it will come back to the Board for final approval. But, the way the ULDC reads, the Planning Commission initiates the text amendments as long as this Board is clear on what the County Attorney is writing. That is what the Planning Commission will see and ultimately what will come back there. County Attorney Manning stated what he is reading is that the answer to that is that we can initiate a proposed change. The City can or the Planning Commission can, so if they do want to start the process, they could do it right now. If not then they will have to rely on the Planning Commission to move forward with our new proposed language. Assistant County Manager Rich stated that they are awaiting a response from them, so once they get the language, it is already on their agenda. That is his understanding. Commissioner Bennett stated that he definitely thinks we need to submit our language for them to consider because we keep coming up with comments on their language. County Attorney Manning stated that this probably would not happen, but if they were to modify it a little bit then they are sending, arguably, their version and we would have to ... Assistant County Manager Rich stated that his understanding, in discussion with the group, is they are basically looking for what we want and what they will give us back is whatever their vote happens to be. County Attorney Manning stated that he does not anticipate... Commissioner Bennett stated that it is just like zoning, we can pass what we want to based on their recommendation. We will either accept it or not. Chairman Fricks stated that in the past we kept voting on it and now we send it back through. Commissioner Bennett stated that he thought that was before they figured out that they *(the Board)* can actually change the Code. Commissioner Jennings stated that he thought that it turns out that the language that they ultimately are sending over there is an improvement upon what was originally sent over there. He stated that personally, while he thinks this is, of the options that they have, this is the best. He still believes that the current procedure that allows for Special Use Permits is the best option.

#### **ADJOURNMENT:**

There being no further business to come before the Board, MOTION was made by Commissioner Jennings, SECOND by Commissioner Hufstetler, that the meeting be adjourned. VOTING:

YES

NO

Commissioner Hufstetler

" Mayes

" Jennings

" Bennett

Chairman Fricks

Motion Carried

**COMMISSIONERS**

**CHAIRMAN**

**FLOYD COUNTY BOARD OF**

**GARRY E. FRICKS,**